

REMARKS

Upon entry of the present Amendment-B the claims in the application are claims 1-18 and 19-20, of which claims 1 and 11 are independent. Claims 7-8 and 17-18 have been withdrawn from consideration as a result of the Restriction Requirement of 12/12/05. Claims 1 and 11 are amended herein.

Applicant respectfully submits that the amendments are fully supported by the original disclosure. Applicant also respectfully submits that no new matter is introduced by way of the amendments.

The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

In the Claims:

Claim Rejections – 35 USC 102

At item 3 of the Office Action, the Examiner rejected claims 1, 4, 6, 11 and 16 under 35 USC 102 (b) as anticipated by Kishi (US 4,678,223). In the rejection, the Examiner states that Kishi discloses a motorcycle with a front mounted radiator 22, radiator cover 42, engine 21, and fuel tank 23, as well as a side cover 45 on each side of the motorcycle which faces the outlet of the radiator and extends between and covers the space between the fuel tank and the engine to an area near the rear suspension 9.

In the Examiner's response to the argument presented by Applicant, in Amendment-A, that Kishi fails to teach a side cover that extends only between a lower side of the fuel tank and

an upper side of the engine, the Examiner states that Applicant has failed to claim that the cover “only” extend between these motorcycle parts. The Examiner states that the claimed structure is clearly not limited to only the space between the fuel tank and the engine.

Applicant’s Response

Kishi discloses a cowling device fixed to a motorcycle frame 2 which includes: a single front cowl 42; left and right center cowl members 45 disposed on the respective vehicle sides so as to be continuous in side view with the rear portion of the front cowl 42; an under cowl 43; rear central cowl members 46 disposed on the respective vehicle sides rearward of the center cowl members so as to be continuous in side view with the rear portion of the center cowl members; and a single rear cowl member 44 (FIG. 2). The Examiner refers to left and right center cowl members 45 to correspond to the claimed side cover, which are disclosed as covering the sides of the engine 21, including front and rear cylinders 34, 35 as well as front portions of the crankcase 32 (see Fig. 1).

Applicant traverses the Examiner’s rejection of claims 1, 4, 6, 11 and 16 under 35 USC 102 (b) as anticipated by Kishi (US 4,678,223). However, in the interest of expediting prosecution of the application, applicant has amended independent claims 1 and 11 herein to more clearly distinguish the applicant’s invention from that disclosed by Kishi. In particular, claims 1 and 11 are amended herein to recite that the side cover extends exclusively between between a lower side of the fuel tank and an upper side of the engine. This is quite different from the disclosure of Kishi for those reasons as stated in Applicant’s Amendment-A.

Because claims 1 and 11, as amended herein, recite side cover features of size and shape which are not anticipated by the disclosure of Kishi, reconsideration and withdrawal of the rejections is respectfully requested. In addition, reconsideration and withdrawal of the rejections

of claims 4, 6 and 16, which depend from claims 1 and 11 respectively and thus also avoid rejection, is also requested.

At item 4 of the Office Action, the Examiner rejected claims 1, 4, 6, 9 and 10 under 35 USC 102 (b) as anticipated by Kohama (US 4,818,012). In the rejection, the Examiner states that Kohama discloses a motorcycle with a front mounted radiator 10, radiator cover 20, engine 9, and fuel tank 16, as well as a side cover 21 on each side of the motorcycle which faces the outlet of the radiator and extends between and covers the space between the fuel tank and the engine to an area near the rear suspension 5. The Examiner further states that the side covers have a convex upper portion along wall 21b and concave lower portion 21c (Fig. 4).

In the Examiner's response to the argument presented by Applicant in Amendment-A that Kohama fails to teach a side cover that extends only between a lower side of the fuel tank and an upper side of the engine, the Examiner states that Applicant has failed to claim that the cover "only" extend between these motorcycle parts. The Examiner states that the claimed structure is clearly not limited to only the space between the fuel tank and the engine.

Applicant's Response

Applicant has carefully considered the Examiner's rejection and respectfully disagrees with the Examiner's assertion that Kohama discloses each and every element of the claimed invention for those reasons as stated in Applicant's Amendment-A.

Moreover, as discussed above with respect to the rejection under Kishi, the applicant has amended independent claims 1 and 11 herein to more clearly distinguish the applicant's invention from the cited art. In particular, claims 1 and 11 are amended herein to recite that the side cover extends exclusively between a lower side of the fuel tank and an upper side of the engine.

Because claims 1 and 11, as amended herein, recite side cover features of size and shape which are not anticipated by the disclosure of Kohama, reconsideration and withdrawal of the rejections is respectfully requested.

As regards claims 4, 6, 9 and 10, the applicant respectfully disagrees with the rejection of these claims for the reasons discussed above with respect to claims 1 and 11, from which these claims depend. Because Kohama fails to anticipate the applicant's invention as recited in the independent claims 1 and 11, reconsideration and withdrawal of the rejection of the dependent claims is respectfully requested.

At item 5 of the Office Action, the Examiner rejected claims 1-6, 9-16, 19 and 20 under 35 USC 102 (e) as anticipated by Kofuji (US Patent Application Publication 2004/0036250). In the rejection, the Examiner states that Kofuji discloses a motorcycle with a front mounted radiator within radiator cover 41, and that a side cover (unnumbered) is also shown in Fig. 1 behind the radiator cover 41 and between fuel tank 14 and engine 9. The side cover has a convex upper portion and a concave lower portion, and a crest therebetween.

Further, in the Response to the Arguments presented by Applicant in Amendment-A, the Examiner states that a certified translation of the applicant's priority document was not present in the case. Thus, such a document can not be used to overcome the rejection.

Applicant's Response

The applicant has included herein a certified English language translation of the priority document, whereby the applicant's claim to priority under 35 USC 119 is perfected. The applicant disagrees that the disclosure of Kofuji, filed on August 22, 2003 is an anticipatory reference, since the applicant's priority date of April 1, 2003 is an earlier date.

Claim Rejections – 35 USC 103

At item 8 of the Office Action, the Examiner rejected claims 2, 3, 5, 12 and 13 under 35 USC 103 (a) as being unpatentable over Kishi (US 4,678,223). In the rejection, the Examiner states that Kishi shows the side cover enclosing a substantial portion of the engine, but is silent regarding an engine control or ignition unit. However, these elements are old and well known and normally required for operation of the engine. It would have been obvious to provide an ignition or engine control unit near the engine, below the side plate, in order to maintain engine components together.

Applicant's Response

The applicant respectfully disagrees with the rejections of claims 2, 3, 5, 12 and 13 for the reasons discussed above with respect to claims 1 and 11, from which these claims depend. Because Kishi fails to anticipate the applicant's invention as recited in the independent claims 1 and 11, reconsideration and withdrawal of the rejection of the dependent claims is respectfully requested.

Conclusion

Applicant has overcome the rejections set forth in the Office Action; and moreover, applicant respectfully submits that the invention defined by each of the present claims is clearly, patentably distinct over all of the references of record.

The application is now believed to be in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner is not fully convinced of all of the claims now in the application, applicant respectfully requests that the Examiner telephonically contact applicant's undersigned representative to expeditiously resolve prosecution of the application.

Favorable consideration is respectfully requested.

Respectfully submitted,



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